

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FUNCTION MEDIA, L.L.C.,	§	
	§	
Plaintiff,	§	Civil Action No. 2007-CV-279
	§	
vs.	§	
	§	
GOOGLE, INC. AND YAHOO, INC.,	§	
Defendants.	§	JURY TRIAL DEMANDED

**FUNCTION MEDIA’S
SUPPLEMENTAL NOTICE ON MOTION TO STRIKE ACQUISITION TESTIMONY**

In order to allay any concern this Court may have about the introduction of evidence related to acquisitions in the expert report of Walter Bratic and the potential prejudice of the amount of the transaction, Function Media agrees and stipulates that it will not introduce the dollar value of any acquisition. The stipulation is: “Function Media agrees not to mention, discuss, or otherwise refer to the dollar value of any acquisition made by Google.”

For the purposes of clarity, Function Media still intends to rely on acquisitions for details other than the actual dollar value of the transaction. Function Media believes that these non-price details are squarely within the ambit of the fact-finder because they go to the weight – not the admissibility – of the evidence. It will not repeat the reasons for the admission of this non-price evidence here, which are well-laid out in both the Response and the Argument.

Given Function Media’s agreement to a stipulation on not referring to the dollar value of any acquisition, Function Media urges the Court to deny as moot Google’s Motion to Strike to the extent it concerns the introduction of the actual purchase price or dollar amount of the acquisition. And Function Media also of course urges the Court to deny the Motion to Strike on all other grounds for the reasons stated in the Response and at Argument.

Respectfully submitted,

/s/ Justin Nelson

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CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2010, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, using the electronic filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Justin Nelson

Justin Nelson